

REMARKS

This responds to the Final Office Action mailed on October 28, 2008.

Claims 1, 8, 15, and 20 are amended; claims 6, 11, and 28 were previously cancelled, without prejudice to the Applicant; as a result claims 6, 1-5, 7-10, and 12-27 are presently pending in this application.

Support for the amendments may be found throughout the original filed specification. By way of example only, the Examiner's attention is directed to the original filed specification paragraphs 39-40, 46, and 52-53.

Moreover, Applicant believes that the amendments are done to place the application in condition for allowance and do not necessitate any new searching on the part of the Examiner. Therefore, entry of the amendments is appropriate and Applicant respectfully requests an indication of the same.

§103 Rejection of the Claims

Claims 1-5, 8-10 and 12-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Katsumi (U.S. 6,369,846) in view of Nefian (U.S. 2003/0212557) and Lubiarz (U.S. 7,003,452) and Holmes et al. (U.S. 5,506,932). It is of course fundamental that in order to sustain an obviousness rejection that each and every element in the rejected claims must be taught or suggested in the proposed combination of references.

The Examiner has suggested that because Applicant failed to specifically claim the "time stamp" that in view of the Examiner the cited references are broadly speaking related to time. Applicant has amended the independent claims to include the time stamp. As such, the rejections of record should be withdrawn and the claims allowed. Applicant respectfully requests an indication of the same.

Claims 7 and 12 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Katsumi, Nefian and Lubiarz, and further in view of Van Schyndel (U.S. 5,940,118).

Claims 7 and 12 are dependent from independent claims 1 and 8, respectively; thus, for the remarks presented above with respect to claims 1 and 8, the rejections of claims 7 and 12 should

be withdrawn and these claims allowed. Applicant respectfully requests an indication of the same.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

AMENDMENT AND RESPONSE UNDER 37 C.F.R. § 1.116 - EXPEDITED PROCEDURE

Serial Number: 10/813,642

Filing Date: March 30, 2004

Title: TECHNIQUES FOR SEPARATING AND EVALUATING AUDIO AND VIDEO SOURCE DATA

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By /



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